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#12

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

ATTY.'S DOCKET: EDELMAN=1

In re Application of:)	Art Unit: 1638
)	
EDELMAN et al.)	Examiner: A. D. Mehta
)	
Appln. No.: 09/529,172)	Washington, D.C.
)	
Filing Date: August 22, 2000)	February 26, 2002
)	
For: TRANSGENIC LEMNACEAE)	Confirmation No. 1629

RESPONSE

Honorable Commissioner of Patents
Washington, D.C. 20231

Sir:

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In response to the Restriction Requirement dated June 15, 2001, applicant hereby provisionally selects Group I for examination on the merits. However, this requirement is traversed, at least to the extent that claims 20-24, 62 and 63 are directed to the same inventive concept as the claims of Group I, so that there is unity of invention between the claims of Group I and claim 20-24, 62 and 63.

Specifically, claim 1 is directed to a genetically stable, transformed *Lemnaceae* plant, while claim 20 is directed to a method for the genetic transformation of a *Lemnaceae* plant, claims 62 and 63 are dependent from claim 20, claim 23 is directed to a method for the stable genetic transformation of a *Lemnaceae* plant and claim 24 depends from claim 23.

Although the Examiner has included in Group I claims directed to one method for transformation of such plants, it is believed that, under unity of invention rules, claims drawn

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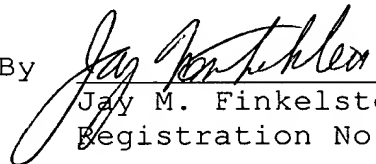
to other methods cannot be properly held to not form a single general inventive concept with the subject matter of claim 1.

In connection with this issue, attention is directed to MPEP section 1893.03(d) sixth full paragraph, which states, in part, that a process can be specially adapted to the manufacture of a product even if that product could be manufactured by a different process.

Furthermore, it is desired to bring to the Examiner's attention that during International Preliminary Examination of the related international application, claims 1-36 and 52-58 were considered to form a single group for examination purpose. If the same Group were considered to be based on a single inventive concept in connection with the examination of the present National Stage application, then claims 62 and 63 should also be included since those claims are identical to original claims 21 and 22.

Accordingly, it requested that the restriction requirement be modified as requested above and all the claims directed to the same inventive concept be examined on the merits.

Respectfully submitted,
BROWDY AND NEIMARK, P.L.L.C.
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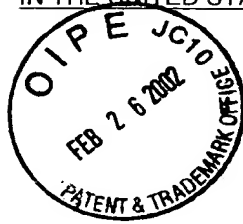
IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In Re Application of: EDELMAN et al.

Application No.: 09/529,172

Filed: August 22, 2000

For: TRANSGENIC LEMNACEAE



Art Unit: 3747

Examiner: A.D. Mehta

Washington, D.C.

Atty.'s Docket: EDELMAN=1

Date: February 26, 2002

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THE COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231

Sir:

Transmitted herewith is a ☐ Amendment ☒ PETITION TO REVIVE UNDER 37 CFR 1.137(b) and RESPONSE
in the above-identified application.

- ☐ Small entity status of this application under 37 CFR 1.9 and 1.27 has been established by a verified statement previously submitted
- ☐ A verified statement to establish small entity status under 37 CFR 1.9 and 1.27 is enclosed.
- ☐ No additional fee is required.
- ☒ The fee has been calculated as shown below:

	(Col. 1)		(Col. 2)	(Col. 3)
	CLAIMS REMAINING AFTER AMENDMENT		HIGHEST NO. PREVIOUSLY PAID FOR	PRESENT EXTRA EQUALS
TOTAL	*	MINUS	** 20	0
INDEP.	*	MINUS	*** 3	0
FIRST PRESENTATION OF MULTIPLE DEP. CLAIM				

ADDITIONAL FEE TOTAL

SMALL ENTITY

RATE	ADDITIONAL FEE
x 9	\$
x 40	\$
+ 135	\$
ADDITIONAL FEE TOTAL	
\$	

OR

OTHER THAN SMALL ENTITY

RATE	ADDITIONAL FEE
x 18	\$
x 80	\$
+ 270	\$
TOTAL	
\$	

OR

- * If the entry in Col. 1 is less than the entry in Col. 2, write "0" in Col. 3.
- ** If the "Highest Number Previously Paid for" IN THIS SPACE is less than 20, write "20" in this space.
- *** If the "Highest Number Previously Paid for" IN THIS SPACE is less than 3, write "3" in this space.

The "Highest Number Previously Paid For" (total or independent) is the highest number found from the equivalent box in Col. 1 of a prior amendment of the number of claims originally filed.

☒ Conditional Petition for Extension of Time

If any extension of time for a response is required, applicant requests that this be considered a petition therefor.

- ☐ It is hereby petitioned for an extension of time in accordance with 37 CFR 1.136(a). The appropriate fee required by 37 CFR 1.17 is calculated as shown below:

Small Entity

Response Filed Within

- ☐ First - \$ 55.00
- ☐ Second - \$ 195.00
- ☐ Third - \$ 445.00
- ☐ Fourth - \$ 695.00

Month After Time Period Set

Other Than Small Entity

Response Filed Within

- ☐ First - \$ 110.00
- ☐ Second - \$ 390.00
- ☐ Third - \$ 890.00
- ☐ Fourth - \$ 1390.00

Month After Time Period Set

- ☐ Less fees (\$) already paid for ___ month(s) extension of time on _____.

- ☐ Please charge my Deposit Account No. 02-4035 in the amount of \$ _____.

- ☒ Credit Card Payment Form, PTO-2038, is attached, authorizing payment in the amount of \$1280.00

- ☐ A check in the amount of \$ _____ is attached (check no.).

- ☒ The Commissioner is hereby authorized and requested to charge any additional fees which may be required in connection with this application or credit any overpayment to Deposit Account No. 02-4035. This authorization and request is not limited to payment of all fees associated with this communication, including any Extension of Time fee, not covered by check or specific authorization, but is also intended to include all fees for the presentation of extra claims under 37 CFR §1.16 and all patent processing fees under 37 CFR §1.17 throughout the prosecution of the case. This blanket authorization does not include patent issue fees under 37 CFR §1.18.

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